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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/829,033

04/09/2001

Frank Venegas JR.

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08/30/2010

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EXAMINER

SAWHNEY, HARGOBIND S

ART UNIT

PAPER NUMBER

2885

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/829,033	Applicant(s) VENEGAS, FRANK	
	Examiner HARGOBIND S. SAWHNEY	Art Unit 2885	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed on June 4, 2010 has been entered. Accordingly: Claim 1 has been amended; and claims 2-11 and 13 have been canceled.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,344,110 (Ruediger) in view of UK Patent No. GB 2344915 A (Baker).

Regarding Claim_1, Ruediger discloses a lighted assembly 10 capable of being used with a stanchion extending from a ground surface, the lighting assembly 10 (Figures 1 and 2) comprising:

- A light transmitting, elongated tubular body 14 having an open end – a bottom end- and a closed end 16 defining a cavity (Figures 1 and 2, column 3, lines 10-15); the cavity receiving the substantially entire stanchion 30 having its opened proximate to the ground surface (Figures 1 and 2); light sources 42,44 disposed inside the elongated tubular member (Figures 1 and 2, column 3, lines 22-34); a power source –rechargeable batteries -operationally connected

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to the light source 42,44 (Figures 1 and 2, Abstract, column 2, lines 36-42); the lighting assembly secured to the relative to the light transmitting tubular body (Figures 1 and 2); the light from the light source 42,44 visible exteriorly of the interior cavity (Figures 1 and 2, column 3, lines 31-36).

However, Ruediger does not teach the lighting assembly including a proximity detector and control electronics, and capable of activating lights when an object is in close proximity of the stanchion,

On the other hand, Baker discloses a lighting assembly (Figures 1 and 2) comprising: a proximity detector, a rechargeable battery and a light source – a timed warning probe (Figures 1 and 2, Page 1, lines 20-23; page 2, lines 18-23; and claims 1 and 2).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the lighted assembly of Ruediger by providing proximity detector as taught by Baker for the benefits of secured environment for the device, its operation and the users.

Allowable Subject Matter

3. Claim 12 is allowed.

The prior art of record, including Moore (U.S. Patent No. 5,121,307), fails to show or suggest the applicant's invention as claimed. Specifically, the prior art of record does not disclose proper motivation for combining:

- the body of the cover having a second cavity defined by the inner and

- outer surfaces and the thickness; and
- the second cavity encapsulating a photo-luminescent mixture.

The above-indicated combination, including a body of a cover having a second cavity encapsulating a photo-luminescent mixture, makes this invention unique.

Therefore, Claim 12 is allowed over prior art.

Response to Amendment

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Applicant's arguments filed on June 4, 2010 with respect to the 35 U.S.C. 103(a) rejections of claim 1 have been fully considered but are moot in view of the new ground(s) of rejections necessitated by the amendment.

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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to HARGOBIND S. SAWHNEY whose telephone number is 571 272 2380. The examiner can normally be reached on 8:00 AM - 4:30 PM 30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jong-Suk (James) Lee can be reached on 571 272 7044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

8/19/2010

/Hargobind S. Sawhney/
Primary Examiner; Art Unit 2885